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October 7, 2009  
Via e-filing & U.S. Mail

Honorable Freda L. Wolfson  
U.S. District Court  
District of New Jersey  
402 East State Street  
Room 2020  
Trenton, NJ 08608

**Re: Graco, Inc. v. PMC Global, Inc., et al. (Case No. 08-CV-1304)**

Dear Judge Wolfson:

We are counsel to defendants-counterclaimants Gama, the PMC entities, and Dennis Commette. We write to briefly respond to Mr. Greene's letter of October 6.

It is true that, in light of Garraf's decision to exit the U.S. market – a decision caused entirely by Graco's abusive litigation tactics; *see* Dkt. 177 – Gama has begun manufacturing spray foam equipment of its own. The new Gama product line was developed entirely independently of Gusmer or Graco. Gama does not possess any Gusmer schematics or technical documents.

Graco's letter essentially complains that Gama should not be permitted to tout the long experience of its employees in the spray foam industry. But the truth is that Gama's employees *have* worked in the spray foam industry for decades, *did* develop many of Gusmer's (now-discontinued) product lines, and none of the defendants are subject to any non-compete obligations. *See* Dkt. 81. A former employee is never prohibited from stating his prior affiliation and employment history. *See, e.g., Playboy Enterprises, Inc. v. Welles*, 279 F.3d 796 (9th Cir. 2002). And Graco's claim that Gama's statement in a press release that its new product line was going "Back to Basics" somehow improperly suggests that Gama is continuing the

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Gusmer product line is objectively frivolous. Similarly, Graco makes much of the fact that Gama identifies its manufacturing facility as "2 Gusmer Drive." The simple fact is, Gama's manufacturing facility *is* at 2 Gusmer Drive, the only postal address for that location. If Graco believes that the businesses and residents of Gusmer Drive are somehow infringing its rights by using their addresses, it should take up the issue with the city of Lakewood, NJ.

Finally, we cannot allow to go unremarked the insinuation that we have somehow violated our discovery obligations. Gama's new equipment is made in the U.S.A. and has been on sale for less than two weeks; the press release Graco complains about was issued only four days before Graco's letter. The defendants will supplement their discovery responses in due course, as both sides have done throughout this case. And once Graco realizes that the new Gama machines have nothing to do with Graco's alleged intellectual property rights, it will have no choice but to withdraw this lawsuit, cease its misconduct, and try to meet its new competitor fairly in the marketplace.

Yours very truly,



David S. Bloch

cc: William Trousdale  
Karen Confoy  
Steven Kaplan  
Brian English  
Tim Rooney  
Clifford Greene